



## Economic Affairs Interim Committee

### 66th Montana Legislature

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July 10, 2019

To: Economic Affairs Interim Committee  
From: Jameson Walker, Legislative Attorney  
Re: Administrative Rule Report, July 2019

The Economic Affairs Interim Committee is responsible for reviewing administrative rules promulgated by several state agencies for compliance with the Montana Administrative Procedure Act (MAPA).<sup>1</sup> The following notices are filed with the Secretary of State's Office for publication in the Montana Administrative Register (MAR). Notices are available at <http://www.mtrules.org> (search by notice number).

### PROPOSAL NOTICES

#### Department of Agriculture and administratively attached entities

##### **MAR Notice Number: 4-19-258**

**Subject:** Amendment and adoption of rules relating to hemp processing and associated fees.

**Summary:** The department proposes to adopt New Rule I pertaining to hemp processing licenses and fees. The department states that the proposed rule will comply with new oversight by the United States Department of Agriculture established in the 2018 Farm Bill. The department states that the proposed rule will help the department avoid jurisdictional confusion with the Department of Public Health and Human Services. The department proposes to adopt New Rule II pertaining to hemp processing for a commodity dealer. The department states that hemp processing regulations are subject to federal laws that are not yet defined and there is a need for regulatory flexibility. As a result, the department proposes to amend 4.19.101 to allow definitions for "hemp plant extract", "hemp root extract", "hemp seed oil", "manufacturing", and "processing".

**Notes/Hearing:** The department held a hearing June 28, 2019, to consider the notice.

<sup>1</sup> The Committee reviews rules promulgated by the following entities: Department of Agriculture, Department of Commerce, Department of Labor and Industry, Department of Livestock, State Auditor's Office, Division of Banking & Financial Institutions, Governor's Office of Economic Development, and Department of Revenue, Liquor Control Division. This report does not represent any action or opinion of the Committee and does not preclude additional action that may be taken by the Committee pursuant to its authority under the Montana Administrative Procedure Act, Title 2, chapter 4, MCA.

**MAR Notice Number: 4-19-259**

Subject: Repeal of rules pertaining to the Montana-Certified Natural Beef Cattle Marketing Program.

Summary: The department proposes to repeal 4.18.101, 4.18.102, 4.18.103, 4.18.104, 4.18.105, 4.08.106, and 4.18.112. The department states that it is repealing the rules to comply with House Bill 51, by Representative Bachmeier. This bill repealed the Montana-Certified Natural Beef Cattle Marketing Program.

Notes/Hearing: The department held a hearing June 26, 2019, to consider the notice.

**MAR Notice Number: 4-19-260**

Subject: Amendment of rules relating to apiary fees.

Summary: The department proposes to amend 4.12.106, 4.12.109, and 4.12.113. The amendments generally seek to remove unnecessary language, make a rule consistent, and require registration of hobbyist apiary sites to comply with House Bill 443.

Notes/Hearing: The department will hold a public hearing on July 17, 2019.

**MAR Notice Number: 4-19-261**

Subject: Amendment and repeal of rules pertaining to pesticide registrations, worker protection standards, containers and disposal program.

Summary: The department proposes to amend 4.10.701 (registration requirements), 4.10.709 (use of pesticides on pest infestations in alfalfa seed crops), 4.10.807 (burning or incineration of pesticide), 4.10.1009 (noncompliance with pesticide worker protection standards and labeling), 4.10.1803 (waste pesticide disposal program), 4.10.1804 (pesticide disposal and container recycling program operation), and 4.10.1806 (fees). Generally, the amendments seek to make the rule language more consistent with Secretary of State Administrative Rule requirements, remove redundant language, and update rules to make them consistent with recent legislation and federal guidelines. The department proposes to repeal 4.10.702 pertaining to registration requirements. The department states that the amendments to 4.10.701 incorporate portions of the repealed rule, making it unnecessary.

Notes/Hearing: The department will hold a hearing July 30, 2019, to consider the notice.

**Department of Commerce and administratively attached entities**

**MAR Notice Number: 8-99-167**

Subject: Amendment of rules relating to the Certified Regional Development Corporation Program.

Summary: The department proposes to amend 8.99.301 and 8.99.304 to comply with House Bill 558. House Bill 558 repealed the Economic Development Advisory Council.

Notes/Hearing: The department does not anticipate the need to conduct a public hearing.

**MAR Notice Number: 8-99-168**

Subject: Amendment of rules relating to the Big Sky Economic Development Trust Program.

Summary: The department proposes to amend 8.99.917 to comply with House Bill 19. House Bill 19.

Notes/Hearing: The department does not anticipate the need to conduct a public hearing.

**MAR Notice Number:** 8-100-169

Subject: Repeal of rules relating to the Montana Board of Research and Commercialization Technology.

Summary: The department proposes to repeal 8.100.101 (organizational rule), 8.100.102 (procedural rules), 8.100.103 (public participation rules), 8.100.104 (definitions), 8.100.105 (application procedures for a research and commercialization grant or loan -- submission and evaluation of executive summary and project proposal), 8.100.106 (application procedures for a research and commercialization grant or loan -- evaluation and review process), 8.100.107 (application procedures for a research and commercialization grant or loan -- board action), 8.100.108 (application procedures for a research and commercialization grant or loan -- funding agreement), 8.100.109 (reconsideration of funding decision -- all research and commercialization proposals), 8.100.110 (failure to produce in Montana -- all research and commercialization grants and loans), 8.100.111 (rights to intellectual property -- all research and commercialization grants and loans), and 8.100.112 (confidentiality of information and open meetings). Generally, the department states that the repeal of these rules are in compliance with House Bill 52. House Bill 52 repealed the Montana Board of Research and Commercialization Technology Program.

Notes/Hearing: The department does not anticipate the need to conduct a public hearing.

**Department of Labor and Industry and administratively attached entities**

**MAR Notice Number:** 24-150-41

Subject: Amendment and repeal of rules relating to the Board of Hearing Aid Dispensers.

Summary: The board proposes to amend 24.150.401 (fees), 24.150.402 (record retention), 24.150.404 (fee abatement), 24.150.503 (traineeship requirements and standards), 24.150.601 (minimum testing), 24.150.602 (transactional document requirements - form and content), 24.150.2201 (continuing education requirements) and 24.150.2301 (unprofessional conduct). Generally, the amendments to the rules are to strike obsolete fees, ensure consistency within the rules, require for a random audit of renewed licenses, standardize licensure renewal processes, and make the unprofessional conduct statute consistent with existing department rules and processes. The board proposes to repeal 24.150.2204 due to the amendments to other statutes in the notice.

Notes/Hearing: The department held a hearing June 14, 2019, to consider the notice.

**MAR Notice Number:** 24-210-45

Subject: Amendment and repeal of rules relating to the Board of Realty Regulation.

Summary: The board proposes to amend 24.210.401 (fee schedule), 24.210.416 (applications for examination and license in general--broker and salesperson), 24.210.661 (new licensee mandatory continuing education--salespersons), 24.210.667 (continuing real estate education), 24.210.801 (fee schedule), 24.210.835 (continuing property management education). The general purpose of the amendments are to address issues identified in a Legislative Audit report relating to fees, remove repetitive rule language, and streamline continuing education processes. The board proposes to repeal of 24.210.616 (waiver of experience requirement for broker licensing

prohibited), and 24.210.666, 24.210.674, 24.210.677, 24.210.834, 24.210.840, and 24.210.843 (pertaining to board approval of courses, providers, and instructors). The repeal of the rules seek to bring fees into compliance with the Legislative Audit report.

Notes/Hearing: The department held a hearing June 18, 2019, to consider the notice.

**MAR Notice Number:** 24-159-87

Subject: Amendment of rules relating to the Board of Nursing.

Summary: The board proposes to amend 24.159.301 (definitions), 24.159.403 (nonroutine applications), 24.159.606 (educational facilities for programs), 24.159.612 (program annual report), 24.159.655 (program faculty), 24.159.670 (curriculum goals and general requirements for programs), 24.159.1037 and 24.159.1237 (renewals), 24.159.2020 (alternative monitoring track), 24.159.2102 (biennial continuing education requirements), and 24.159.2106 (auditing of contact hours). Generally, the amendments seek to incorporate suggestions by the National Council of State Boards of Nursing.

Notes/Hearing: The department held a hearing July 2, 2019, to consider the notice.

**MAR Notice Number:** 24-21-346

Subject: Amendment of rules relating to registered apprenticeships.

Summary: The board proposes to amend 24.21.202 (state apprenticeship and training program), 24.21.302 (federal regulations incorporated by reference), and 24.21.421 (equal employment opportunity). The department states that it is necessary to amend the rules to update federal citations, comply with federal rules, and update relevant department website addresses.

Notes/Hearing: The department extended the comment period and will hold a hearing July 26, 2019, to consider the notice.

**MAR Notice Number:** 24-174-71

Subject: Amendment and repeal of rules relating to the Board of Pharmacy.

Summary: The board proposes to amend 24.174.401 (fee schedule), 24.174.507 (military training or experience), 24.174.524 (collaborative practice agreement requirements), 24.174.602 (internship requirements), 24.174.604 (preceptor requirements), 24.174.612 (required forms and reports), 24.174.701 (registration requirements), 24.174.703 (use of pharmacy technician), 24.174.711 (ratio of pharmacy technicians to supervising pharmacists), 24.174.835 (transfer of prescriptions), 24.174.2104 (registered pharmacist continuing education—requirements). The amendments generally seek to remove the technicians-in-training license type, amend military training rules based on feedback received, remove the requirement to annually submit collaborative drug therapy management agreements, amend pharmacist internship requirements to improve education opportunities, update authority and implementation citations, expand the pharmacist to pharmacy technician ratio from 1:3 to 1:4 to better reflect changing pharmacy practice, align the rules with current pharmacy practice relating to questions from licensees and the public, facilitate the department's standardized renewal, administrative suspension, and audit procedures, and eliminate duplication in rules. The board proposes to repeal 24.174.702 (qualifications of pharmacy technician), 24.174.2101 (pharmacies—annual renewal), 24.174.2102 (pharmacy technician—renewal), 24.174.2103 (renewals), and 24.174.2107 (registered pharmacist

continuing education–noncompliance). Generally, the board states that it is repealing the rules because they are unnecessarily duplicative of the department's continuing education and renewal rules in addition to being duplicative of the department's standardized procedures.

Notes/Hearing: The department will hold a public meeting on July 26, 2019, to consider the notice.

#### **Department of Revenue, Liquor Control Division**

There are no pending rules.

#### **Department of Livestock and administratively attached entities**

**MAR Notice Number:** 32-19-297

Subject: Amendment of rules relating to importation of restricted or prohibited alternative livestock.

Summary: The department proposes to amend 32.3.104 (subject diseases or conditions). The department states that the amendments are necessary to allow the department to track and manage diseases of special interest to Montana's livestock industries. The department proposes to amend 32.4.502 (importation of restricted or prohibited alternative livestock). The department states that this will prohibit the importation of cervids to Montana for reasons other than slaughter. The department states that this is due to the increasing numbers of detections of chronic wasting disease in certified herds.

Notes/Hearing: The department does not anticipate the need for a public hearing but recently extended the public comment time to August 5, 2019.

#### **State Auditor's Office**

There are no pending rules.

#### **Division of Banking & Financial Institutions**

There are no pending rules.

#### **Governor's Office of Economic Development**

There are no pending rules.